

CARR SCHWARTZ BUTTERFIELD, LLC

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MEMO ENDORSED

March 20, 2008

Via facsimile (212) 805-7949, First-Class Mail, &
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Honorable P. Kevin Castel
United States Courthouse
Court Clerk's Office
500 Pearl Street
New York, NY 10007

USDS SDNY
DOCUMENT
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Re: Peter Fish & Co. Pty. Ltd. and
Peter Fish (HK) Ltd. v.
Steve Walterscheid, Peter Cummings and Zing Toys, Inc.
Civil Action No. 07 CV 10719 (KPC)

Dear Honorable Castel:

This firm represents defendants Steve Walterscheid, Peter Cummings and Zing Toys, Inc. (collectively referred to hereinafter as "the Zing Defendants").

Recently, the Zing Defendants retained our firm to represent their interests in the subject litigation filed by Plaintiff on November 30, 2007, in the SDNY. On or about March 17, 2008, my partner, John Carr, received service as registered agent for Zing Toys, Inc. and, on March 19, 2008, defendant Steve Walterscheid received service. We are in the process of confirming proper service on the remaining defendants.

Prior to Plaintiff's latest round of efforts to properly serve the Zing Defendants, we raised with Plaintiff's counsel the fact that service and venue were improper, and that the SDNY court may lack personal jurisdiction over one or more of the defendants. We also informed Plaintiff's counsel, Philip Gottfried, that the Zing Defendants are in the process of collaborating with their Hong Kong counsel to present a settlement proposal to Plaintiff in this case. (Attached for your review and reference is a copy of the Statement of Claim filed in the related Hong Kong litigation, which involves the same affiliated parties to the subject litigation filed in SDNY.) It is our hope that meaningful settlement talks will prove fruitful with the benefit of a little more time.

To protect their interests in the present litigation filed in the SDNY, the Zing Defendants just today formally retained local NY counsel, Ken Feldman of the firm Feldman Law Group. We are actively collaborating with the Feldman Law Group to submit undersigned counsel's *pro*

Honorable P. Kevin Castel
March 20, 2008
Page 2

hac vice application on behalf of the Zing Defendants. We also recently communicated via phone and electronic mail with Plaintiff's counsel, Philip Gottfried, and confirmed that Plaintiff will not oppose our prospective *pro hac vice* application.

Based on the above, we respectfully request that your honor grant the Zing Defendants until April 10, 2008, to file their responsive pleading. We expect this will permit the Zing Defendants adequate time to further explore settlement, or otherwise move the court for other relief. We likewise request a 30-day extension of time to permit the parties until April 10, 2008, to submit their joint scheduling letter to your honor. Finally, we request that you grant a 30-day extension of the initial pretrial conference currently set for March 28 at 9:30 a.m. We are informed that Plaintiff's counsel does not oppose the 30-day extensions requested herein.

Respectfully submitted,

CARR SCHWARTZ BUTTERFIELD, LLC

Lisanne M. Butterfield
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c: Phil Gottfried
Ken Feldman
John T. Carr

Enclosure

*Initial conference
adjourned from March
28 to April 18, 2008 at 10:00am
Time to answer a move
adjourned from April 10
to a date to be set at
conference.
SO ORDERED.
VSDJ
3-24-08*